



**TOWN OF HARPSWELL
PLANNING BOARD MINUTES
June 17, 2009
APPROVED**

MEMBERS PRESENT

Joanne Rogers, Chair
John Papacosma, Vice Chair
Robin Brooks, Secretary
Dorothy Carrier
Roberta Floccher
Debora Levensailor, Associate
Burr Taylor, Associate

MEMBERS ABSENT

STAFF PRESENT

Carol Tukey, Town Planner
Melissa Moretti, Recording Secretary

The Town of Harpswell Planning Board meeting, being duly advertised in the Brunswick *Times Record*, was called to order at 6:32 PM by Joanne Rogers, Chair. The Pledge of Allegiance was recited, and introductions were made of Board members. The Chair introduced the new associate member, Burr Taylor.

The Chair reviewed the Agenda and suggested that the Board should hear New Business first, before Old Business, and then hear the blasting review and basement review after that; there were no objections. The Town Planner asked the Chair to announce the addition to the Agenda of a sketch plan review of a boundary change.

CONSIDERATION OF MINUTES

The Chair asked for a motion to accept the Minutes of March 18, 2009 as printed. Ms. Carrier made the motion and it was seconded; the Minutes were accepted unanimously, as printed. Mr. Taylor abstained.

NEW BUSINESS

Orr's-Bailey Yacht Club/Abbot Fletcher Sailing School (Owner/Applicant), Site Plan Review, Tax Map 27 Lot 27, 26 Osbourne Row, Orr's Island.

Richard C. Darcey, of Orr's Island, a property owner for 25 years and a summer resident, addressed the Board; he said he was currently living in Brunswick. He referred the Board to their packet materials and explained that the Yacht Club wanted approval to add one 12 ft. x 24 ft. float for the sailing school. He said that it would be a safer way for the students to get the boats to the water. He clarified that all their requests were for seasonal improvements. They also wanted approval for a smaller seasonal float (10 ft. x 20 ft.), a ramp 3 ft. x 30 ft., and a fixed pier, 6 ft. x 25 ft. He said the fixed pier would stay in place over the winter and was above the high tide line. He explained that the ramp ran from the high tide line to the 10 ft. x 20 ft. float which sat above the low water line, and at high tide it would have three feet of water under it. It would also provide shore access for the club property. He asked the Board if they had questions; there were none.

SITE VISIT

The Chair mentioned that she had attended the site visit on June 15, 2009 at the Yacht Club, along with Ms. Carrier, Mr. Papacosma, Mr. Brooks, Mr. Taylor and Ms. Tukey, the Town Planner.

She asked the Town Planner if there was any information regarding financial and technical capability; Ms. Tukey responded that none had been submitted, but the Code Enforcement Officer could address the Board regarding the issue.

Mr. Wells addressed the Board and stated that the project was a volunteer effort and there was no financing needed; he was doing the work himself. He stated that he was an engineer; he would also certify that the construction was done properly.

The Chair asked if there were any other findings of fact necessary under §15; there were none. She also stated that there were no conditions of approval, and asked for a motion.

Ms. Carrier moved that the Applicant had met the requirements of §15 of the Ordinance with regard to the Orr's-Bailey Yacht Club's request for a ramp, deck and float. The motion was seconded; there was no further discussion. The motion passed unanimously.

John J. Ciarfella (Owner/Applicant), Sketch Plan Review, Change in Boundary Line, Map 42 Lot 28, 13 Doughty Point Road, Harpswell.

The Town Planner informed the Board that the application had been submitted that day; therefore, it had not previously been distributed to them. She explained that the Applicant had proposed a basic lot line change.

Michelle Bryer addressed the Board; she also introduced John Ciarfella. She stated that they lived at 13 Doughty Point Road, and their proposal was for a "100% like exchange" (1535 sq. ft.). She explained that there was an existing garage on their property, and the property sloped toward the garage which caused it to flood in the spring and build up ice during the winter. They wanted to move it to the other side of the property, which would make it too close to the property line. Ms. Bryer said they approached their neighbors for a like exchange, "even for even property;" they said they had no problem with that. She stated that, due to the fact that the property was in a subdivision, and the way the ordinances were written, the issue had to be approved by the Planning Board. She said they had addressed the issue with their neighbors over the past year, and what the Ciarfellas had proposed had been the "least invasive and most agreeable" to everyone. She said the proposed change took away the back side of the Ciarfella property and a little bit of the neighboring property, and if the Ciarfellas ever had a septic issue, there was room enough on the back side of their property to put in a new one. She clarified that the properties involved were conforming lots, over an acre each.

Mr. Wells addressed the Board, and stated that the Code Enforcement Office had reviewed the proposal, and endorsed it; it was permitted in the Basic Land Use Ordinance, a "same for same swap". He confirmed that both lots would be conforming, before and after the swap.

The Chair asked the Board if they had questions; Ms. Carrier asked if there were any trees that would have to be cut. Ms. Bryer clarified that there were not, and said that "visually" nothing would change; also, the stockade fence shown on the submitted drawing would remain. Ms. Carrier asked where the entrance to the property from the Doughty Point Road was; Ms. Bryer showed her on the submitted diagram. It was also clarified that two sheds would be removed, and two others would be relocated.

The Town Planner mentioned to the Board that the lot line was oddly shaped and it was usual to prefer a straight line. However, she said that, since the Ciarfellas had been working on the matter for a year with their neighbors, it would be acceptable as proposed. Ms. Bryer explained that the neighbor in question lived in Connecticut, and could not make the meeting as she was in the process of retiring.

Mr. Wells addressed the Chair and stated that the survey had been performed by Brian Johnson of MidCoast Survey, and that he had dealt with both parties involved. He reiterated that the proposal involved only two lots in the subdivision, the Ciarfellas and their neighbors, and that the Code Enforcement Office did not see any "negative" issues.

The Chair asked the Board if there were any questions; Ms. Carrier expressed a concern about procedure. The Town Planner explained that the Ciarfellas were able to get on the Agenda that day because it was “only a sketch plan;” they would have to return to the Board and present a full plan and Mylars. The Town Planner would then review it against the Ordinance and the subdivision laws, the Planning Board would be able to see the full subdivision, and would also have a full plan that they could sign. If the Board agreed with the general direction taken by the Ciarfellas, then they could proceed comfortable in the knowledge that it would probably be agreed to by the Board, and without a large expenditure for complete plans, etc.

The Chair stated that she wanted to see something in writing from the neighbor the next time; the Town Planner said that it was intended that the neighbor attend the Planning Board meeting the next time. Ms. Bryer stated that the neighbor had said she would get a letter to them as soon as she could, to be presented with the whole package.

The Town Planner thanked the Chair for allowing the Ciarfellas to present their proposal on such a short notice.

OLD BUSINESS

Shoreland Zoning Ordinance Amendment – Non-Conforming Structures

The Chair asked for comments from the Board; Ms. Carrier asked the Town Planner to comment.

Ms. Tukey read from her memo that addressed §10.3.1.2 of the Shoreland Zoning Ordinance. Ms. Tukey stated that “foundation” was defined to include basements as part of Harpswell’s Ordinance. She referred the Board to “Expansion Examples” from her memo, copied from the Basic Land Use Application from the Code Enforcement Office. Mr. Papacosma clarified that the calculation would be based on existing living space. If there was a full basement that was finished, it would be included in the 30% calculation. Ms. Tukey said that would significantly limit what someone could add to their structure. There was discussion among the Board members.

The Chair said that people would finish off their basement anyway, because it was not counted as part of the 30%. Ms. Tukey said that when renovations were done now, the calculation was based on all volume and all square footage. The Chair said she understood that the 30% applied to the rest of the structure, and that the basement was not included in the 30% calculation. It was her opinion that the proposed language from the Town Planner just spelled out “what they were already doing.”

Ms. Carrier said that the Board had been misinformed; they had understood that basements were not included in the 30% calculation, regardless of height. She referred to cases before the Board in the past that were allowed 30% expansion. She said because basements and foundations were not counted, they were allowed to raise it [by] three feet and had also added 30% above.

Ms. Tukey said that the new Ordinance voted on in March, 2009 removed the basement. She said that the example calculation (# 1) she provided them was correct, based on the March, 2009 Ordinance. The Chair asked to see the Ordinance, which the Town Planner provided. Ms. Tukey reiterated that the language addressing the “basement scenario” had been removed in order to comply with the State mandated changes.

Mr. Brooks gave an anecdotal example of a non-conforming bungalow, which the Board discussed. The Chair read from §10.3.1.2 of the Ordinance. There was further discussion. Ms. Floccher suggested adding a “note” that would say “In no event shall total expansion, including that by replacing [basement], exceed 30%.” Mr. Brooks said that the Ordinance of March, 2009 had language that excluded daylight basements.

The definitions of “foundation” and “basement” were discussed as they pertained to the Ordinance. Mr. Brooks revisited his example of a bungalow; there was further discussion.

The Chair suggested that the Board had reached an impasse. The Town Planner said, as a possible solution, she would remove the basement option. The language would state that the applicant had to add in basements when the 30% calculations were made. There was discussion regarding the wording. Ms. Tukey said she would give the Planning Board two options: 1) one that would totally remove the basement option, or 2) to limit the height of the basement living space to four feet.

The Chair commented that the Board would revisit the issue of basements and foundations again. Ms. Carrier suggested the issue be addressed with the Code Enforcement Officer.

Mr. Brooks referred the Board to §10.3.1.2 of the existing Ordinance quoted in the Town Planner’s memo. He suggested that the last sentence either be struck out or reworded.

The Chair continued to the next Agenda item, and asked the Town Planner to summarize briefly.

Blasting Ordinance Review

The Town Planner said that there had been some question regarding whether the Town needed a blasting ordinance. She said that the Town agreed, along with the Planning Board, that one was necessary. She explained that, in creating the proposed ordinance, she had taken applicable language from other Maine Town’s ordinances.

She summarized and stated that the Code Enforcement Officer would review permits for blasting, and would have some kind of authority to monitor what was being done and to ask for their blasting plan. The proposed ordinance would also allow for hydrologic or geologic studies. The blasting operator might be required to notify the neighbors, and the neighbors would also have the authority to take pictures of their foundations, etc. She said that there was presently no monitoring ability, and it was up to the blasting professional to provide documentation and/or any warning. The proposed ordinance would also provide for a public hearing before the Planning Board.

There was discussion among the Board members; it was stated that there had been problems, but there was no recourse. Ms. Levensailor said she had reviewed the proposed ordinance and approved of it.

Ms. Carrier asked how the ordinance would address recourse issues. Ms. Levensailor referred to wording at the top of Page 3 which addressed proof of liability. Ms. Carrier reiterated that she could not see how the ordinance would provide protection.

Ms. Floccher said that the matter was a “potentially dangerous item;” there was the chance for irresponsible contractors to do the work. It was her feeling that if a contractor had to “jump through hoops”, the process might keep away the irresponsible or unscrupulous ones. Mr. Papacosma agreed with her comments, and said that it could act as a “filter.” The issue of a blasting contractor being insured was also discussed.

Ms. Tukey said she would ask the Town Attorney if there was a sentence that could be added to the proposed ordinance that would make a direct connection for recourse. She explained that the ordinance would allow for a direct connection to be made before and after the blast by the use of photographic documentation, etc.

Ms. Carrier said the process shouldn’t be [financially] “burdensome” for a homeowner who only needed a small blasting job done. Ms. Tukey referred the Board to the proposed ordinance, and suggested increasing the total amount of cubic yards mentioned in §C(1)(a).

Mr. Brooks said that his concern was the amount of power in the charge (the explosion). Ms. Carrier informed the Board that, in her experience, blasters do numerous "drills" because several small blasts (more charges) would create "smaller pieces," as opposed to one large blast which would create larger pieces. [It should be noted that Ms. Carrier's husband is a local contractor.]

Ms. Levensailor suggested wording to address a smaller project, i.e. a septic system, etc. that could be included at the top of Page 3, §(b). The Chair discussed a personal situation she had experienced where she lived on Abner Point, on Bailey Island.

Mr. Papacosma mentioned that the proposed ordinance did address water quality under "Performance Standards." Notifications were also discussed.

The Board agreed that the Town Planner should make changes to the proposed ordinance as discussed, and present the revised version at their next meeting.

OTHER BOARD BUSINESS

Consideration of Planning Board exercise of jurisdiction over applications(s) pursuant to Site Plan Review Ordinance §16.4 and/or Shoreland Zoning Ordinance §10.3.2.3.

There were no jurisdictional issues to discuss.

Town Planner's Updates

There were no updates from the Town Planner.

A motion was made to adjourn, which was seconded.

The meeting adjourned at 7:28 PM.

Respectfully Submitted,

Melissa Moretti
Recording Secretary